

APPROVED: Meeting 26-84

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 24-84

July 23, 1984

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Rockville, Maryland, Maryland at Vinson Street, on Monday, July 23, 1984, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Blick reported the following:

1. The contract cost of the lighting at Richard Montgomery high school's stadium will be \$55,515. The low bidder was Vignola Electric Company. This is approximately \$10,000 under the amount budgeted.

2. Bob Mateer, Superintendent of the Woodley Gardens Senior Center died last Wednesday after a serious illness. He did a very good job at the Senior Center and his passing is a great loss, not only to the Seniors but to his fellow workers.

3. The County Council recently passed a municipal powers law. Staff is currently conducting a comprehensive review of County laws that are applicable

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or could be applicable in Rockville. Recommendations will be presented to the Mayor and Council in four to five weeks.

Mayor Freeland said Mr. Mateer's passing is quite sad for all those who knew Bob. He suffered a long time from his illness and under the circumstances there was a blessing in his passing.

Mayor Freeland said since the lighting costs were well under the estimate, possibly the funding should be used for another school. It was the consensus of the Council that they wait for a response from the schools to the City's letter announcing the future budget plans.

Councilman Tyner requested an additional item be placed on the agenda as Item 3A entitled "Discussion of City Ethics law constraint". The Mayor and Council agreed to this.

Re: Appointments

Mayor Freeland made the following appointments. They were confirmed by the Council:

Rockville Housing Authority - Jeryl O. Cogan - reappointment - five year term  
Cultural Arts Commission - Beth Carroccio & Keith Fisher - Appointed Co-Chairmen  
Alternative Community Service Commission - Jane French - reappointment - 2 year term  
Recreation & Park Board - Genie McKay - appointed - two year term  
 315 Woodburn Road  
Animal Control Board - Lucinda Denton - appointed as alternate - 3 year term  
 603 Smallwood Road

Councilman Tyner asked for a Status Report on the Humanities Commission at the next meeting.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. Mark Allen, North Farm Citizens Association. Mr. Allen told the Council that the North Farm Citizens Association has changed officers. He is the new president. He handed out a list of the new officers to the Council. He noted there are letters being sent to the Planning Commission stating North Farm's opposition to development in Area 12 and a request for a meeting with staff. He thanked the City staff for its support of the North Farm annual picnic.

2. Robert Jacques. Mr. Jacques told the Council that they should consider abolishing his job as an Election Judge due to the sophistication of the new equipment and the improved methods. There is no longer a need for 12 balloting places nor for the large number of workers at each. He said there are no lines except for a very brief time because the new machines eliminate all the past problems. He would like to see the system streamlined to avoid cost.

Mayor Freeland asked that the City Clerk report back to the Council on this.

3. Jeryl Gegan, Chairman of the Rockville Housing Authority. Mr. Gegan thanked the Mayor and Council for their continued confidence in him and said he gratefully accepts the reappointment.

Mayor Freeland said he is delighted with the positive trends shown at the Housing Authority and it is the Council's feeling that a great deal has to do with Mr. Gegan's positive efforts.

4. Alice Kelly, a West End resident. Mrs. Kelly said she has some questions to pose to the Council. 1) Should citizens of Rockville demand any less a standard of conduct from City employees than County employees. 2) Should the Council consider adopting the provisions of the Montgomery County Ethics Code for employees and 3) She thought the Mayor should not participate in a discussion of possible changes in the City's Ethics Code since a stronger code might apply to his co-employment.

Councilman Abrams asked that copies of Mrs. Kelly's questions be included in Councilman Tyner's discussion.

5. Steve Fisher, President of Burgundy Neighborhood Alliance. Mr. Fisher thanked the City Manager for the staff's response to the Code problems. He suggested the City develop an ordinance to prohibit the storage of inoperable vehicles in residential neighborhoods. He then provided the City with a list of problems in his neighborhood in the vicinity of Neal, Wesley and Allen Drive to do with storm drains, trash, dead oak trees, the Maryvale stream and a tread missing from the bridge in Maryvale Park.

Mr. Fisher added he does not approve of any member of the Mayor and Council, Planning Commission or Board of Appeals being employed by a company that does business with the City either through proposed development, zoning or the variance procedure. It is a disservice to the staff and other members of the Council or commissions to address the item. It causes decisions to be made by the other members with a "jauniced eye" and not on the basis of merit and sets a poor precedent and can erode public confidence in government.

6. Regina McAndrew, West Montgomery Avenue. Mrs. McAndrew thanked Councilman Duncan for bringing the questions before the public as he has. She said she disapproved of the fact that aspersions were being cast on his motivation.

7. William Kominers, Linowes & Blocher of Silver Spring. Mr. Kominers said he would like to comment on Item No. 5, Text Amendment Decision, on the agenda and asked if he would be able to comment when this is discussed. The Mayor pointed out that this is not an open hearing. Item No. 5 is a decision. He asked if Mr. Kominers planned to address points that were not covered at the public hearing. Mr. Kominers said no, the points were raised at the public hearing and he would just like to reiterate them. Mayor Freeland explained the

Council's normal practice and told Mr. Kominers that the Councilmembers can certainly ask questions of Mr. Kominers at that time if they wish.

8. Carole Cohen, Farragut Avenue. Mrs. Cohen said she spoke at a previous Council meeting and hoped that the question of the Mayor's employment would be put to rest, but it has not. She noted that Mr. Fisher mentioned a difficulty when one member of the Mayor and Council abstains. She disagrees with his comment. She does not like to see someone tried in public on the basis of something that has not happened yet.

9. B. J. Horton, Cedar Lane. Mr. Horton said that he supports Mayor Freeland and he would like to express his displeasure and disgust with the material that is being placed in the press and which casts dispersions on a career officer and a man who has conducted his office with integrity. He said he has looked for "most concerned citizen" who signed one letter in the paper and has not been able to locate this person. He suggested it would be behoove each person to search his own soul before he comes forward with accusations.

10. Tom Lawrey. Mr. Lawrey held some newspaper clippings before the Council and said they are not the type of things he likes to see. Mr. Lawrey said he supports Mayor Freeland. He has known him since 1974 as a Councilman and many years before that. He has shown in the past that he is a man of integrity. If the press feels there is a need to try someone, the public should be advised of both sides of the matter. He is confident the Mayor will do what he is allowed to do under the law and prays to God that things will come out right.

11. Cora Alter, 10 Watchwater Way. Mrs. Alter said she has been involved in this City for a long time. She has supported John Freeland as a Councilman and as a Mayor and has worked for the election of many members of the Mayor and Council. She would echo the statements of Mr. Horton, Mrs. Cohen and Mr. Lawrey. Their statements say a lot.

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12. Regina McAndrew. Mrs. McAndrew said she has heard many sentimental comments this evening and they are quite nice but she feels there is a perception of conflict and as such that is a disservice to the City and the citizens. The matter should be brought out in public and discussed openly. To note that somebody is a person of integrity is not enough. If Eisinger/Kilbane is to have an advantage in the development of this City or the perception of an advantage, it is a matter that should be aired and talked to by all the people.

13. Cora Alter. Mrs. Alter asked the Mayor and Council what type of procedure would be followed this evening when Councilman Tyner's item on the Ethics Law is brought forward. Would it in fact be a public forum. The Mayor said there would be no public participation this evening on Item 3A. It was an effort to bring the matter up so that the issues can be raised. They will be discussed by the public at the proper time.

14. Mary Donna Osborne, Leahy Drive. Mrs. Osborne said it would seem to people that the Mayor is being condemned and convicted before a crime has been committed. That is not even done to killers. She asked why a man would change after all these years. When he was an officer in the military and when an armory was located in the City there was no discussion of conflict.

15. Homer Brock of East Rockville. Mr. Brock said the City is lucky to have a hot wire like the Mayor and have his expertise running the City. Mr. Brock gave his interpretation of the action of a chicken.

16. William Mark Allen, North Farm Citizens Association. Mr. Allen said if the discussions of the Mayor's employment took place before the election there could be a problem. If the discussion takes place after the election there is none but the Mayor will have to tell the citizens the sequence.

17. Pat Lee of Baltimore Road. Mrs. Lee said the Rockville citizens are

spoiled. In the past they did not have to consider a private businessman since there were two federal employees as Mayor. They are being forced now to look at something different and they refuse to do so. She noted that she backs each member of the Council because of his or her integrity.

16. Gino Capotosto of the American Legion Post 86. Mr. Capotosto said the Legion has been associated with the City of Rockville for a number of years and Post 86 supports Mayor Freeland in all of his endeavors.

He said the flag flying at Veirs Mill Road looks just beautiful and the members of Henderson-Smith-Edmonds Post 86 of the American Legion are happy the City asked the Legion to participate. This evening when the figures were tallied, the contributions totalled a little over \$12,000.

Mayor Freeland said the Raise the Flag project has brought all kinds of people with all types of interests together and has been a sterling example of the All America City principal. He commended everyone involved from the City Clerk, Mrs. Heneghan, to the last citizen that even gave 50¢. It was the spirit more than the money and the Mayor and Council are most proud that the flag is flying on the F. Scott Fitzgerald Triangle.

There being no other citizen wishing to address the Mayor and Council, the Mayor closed the citizens forum portion of the meeting.

Re: Discussion of City Ethics  
Law Constraints

Mayor Freeland said he appreciates both views expressed by the public this evening. He did not make his decision to accept his current employment in a vacuum. He worked with the other members of the Council, the City Manager, the City Clerk and the City Attorney. He talked to all of those people. Each of them that he spoke to saw an opportunity for a political problem over the Rockville Mall. He said for a long time he knew the City needed to resolve the Mall before any Town Center Plans could proceed and he worked to bring about the

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solution to the Mall through an open process. That process involved the entire Mayor and Council over a period of years. Fortunately that has been completed and the Mall is now on its way to being a viable part of the City. He said it would seem from the press reports that there is an inference that someone got a good deal from the Mall and if any member of this four member Council thinks that an individual did get special consideration on the Mall the Mayor will stand criticized. But it was a long and arduous task in securing someone to take the Mall and the cost of it off the citizens' hands.

Mayor Freeland said when he talked to his co-workers that he would resign if they gave him strong feelings that it was in the City's best interest. Their feeling was they had worked with the Mayor in the past and if they could continue to do so they were going to try to do that. Based on those conversations he took the position. He said he does not at all disagree with the idea of having the Ethics Ordinance looked at and reviewed. He would like to see a work session and a public hearing and if the ordinance must be changed for the best interest of the City and the citizens he will wholeheartedly support it. If in so doing it makes his action in accepting the job contrary to the law and public interest, he will make a decision on giving up either his position as Mayor or his position with Eisinger/Kilbane. He stands ready to comply with the wishes of the Council and the public.

Councilman Tyner said there is no way that laws can cover all aspects of conflicts of interest provisions and public confidence applies to all members of the Council. It would be in the best interest of the City to minimize the appearance of conflict. As a policy decision this evening, he would like to instruct the staff to work on this paper that he has provided which shows the Mayor would abstain on all items concerning Eisinger/Kilbane and other Town Center properties. He submitted his proposals for discussion.

His proposal reads as follows:



Laws can never fully cover all aspects of conflict of interest situations. Public perceptions of apparent conflicts of interest can be evident at any time. I would suggest that we, as the Mayor and Council currently in office, reaffirm our desire to avoid all real conflicts of interest and to minimize as much as we can all appearances of such conflicts. In our role as Mayor and Council, we make policy decisions on matters and give instructions to staff on implementation of such decisions. It is in these areas where we must be extremely conscious of any appearance of impropriety. May I suggest that we agree to the following points:

1. Abstain from voting on, and will absent himself/herself from any discussion of, any item of business in which the member has a personal interest of a financial nature.
2. Abstain from voting on, and will absent himself/herself from any discussion of, any item of business in which the company or association with which a member is affiliated has an interest.
3. If any item of business comes before the Mayor and Council which may affect, primarily or secondarily, any market or competitive advantage of any company or association in which a member has an interest, such member will abstain from voting on, and will absent himself/herself from any discussion of, that item.
4. No member will use information (which is not available for public at large) gained as a result of his/her position on the Mayor and Council to in any way, directly or indirectly, benefit any company or association with which he/she is affiliated.
5. For a period of one year after termination of such interest, abstain from voting on any item of business in which the member had a personal interest.

With regard to Mayor Freeland's current employment, these points would mean that he would not vote on, nor would we discuss in his presence in official Mayor and Council sessions, matters involving the firm of Eisinger/Kilbane nor on matters involving the other city-owned parcels in the Town Center currently under development contract with Winmar-Nordal.

Furthermore, I would ask that the Ethics Task Force, appointed January 3, 1984, to examine the City's Ethics law in light of the provisions of State Ethics laws, immediately begin an intensive examination of such provisions with regards to City elected and appointed officials. This examination should include separate provisions for members of our quasi-judicial boards and commissions as well as all other boards and commission.

Councilwoman Novseplan noted that the Councilmembers held an executive session last night to discuss with legal counsel what the situation is. It was

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the first time that Council had an opportunity to convene as a group. She would like to see people appointed to look at the present ordinance and then hold a work session and public hearing.

Councilman Duncan agreed that the Ethics Ordinance needs to be looked at and it should be done as quickly as possible. He would like to see demonstrated dramatically to the people the high standards that should be set for local government.

Councilman Abrams said he disagrees as a matter of principle on the Mayor's promise to comply with the ordinance if changed. He concurs with Councilman Tyner's interim approach of having the relationship defined so that perception of a high standard of conduct can be maintained. He said he has heard politically motivated statements made in the past two weeks supposedly interpreting the City's ethics law that as an attorney he must disagree with. Any retroactive application of the law is a bad precedent and he would be more comfortable if something wasn't hanging over his head while he discusses conflict of interest because that to him is a conflict of interest the other members of the Council would feel. He said Mayor Freeland's decision was his decision. As to the legality of it, it was checked with the City Attorney and he found it to be legal. A second question has arisen as to whether the group can continue to work together. There was no problem mentioned of that at the time the decision was made. As to perception by the public and will they let it work, only time will tell. He noted that the appearance of public confidence, like beauty, is in the eye of the beholder. There seems to be a divided opinion and that is not easy to resolve. As to Mrs. Kelly's questions, and the fact that they should be addressed, he has a problem with her first question and can look at the alternative to it and ask if the City should mandate that any employee of the Lisinger/Kilbane company should be precluded from running from office. He noted that her second question, of the City adopting the County

Code, is not workable since their code is too limited and applies to all full-time employees. Limiting oneself to County Code would preclude the City from looking at the State law and other City codes that are certainly more reflective of the municipal form of government. As to her third question he said there is no purpose to be served by excluding the Mayor from discussions of the conflict of interest law.

He said he has questioned from the beginning whether or not the public will allow the Mayor and Council to continue to act effectively and there should be a way to gain a public opinion from all of those people in the City rather than just activists. He thought of ways to get the feeling of public concern and his previous suggestion of a post card referendum showed that Rockville reflected the national sentiment. He plans to throw open that idea to see if the people who elected this Mayor and Council still show confidence.

Councilman Tyner suggested the staff be asked to provide the Mayor and Council with materials that the staff Ethics Task Force is working on to see if they pertain to elected officials. Also, if they will pertain to quasi-judicial and judicial boards and commissions. He would like to see a work session scheduled after the materials are ready.

On item number four of Councilman Tyner's suggested policy the wording "which is not available to public at large" was added after information.

Councilman Abrams suggested that another point be included in this material saying that the Council has the obligation to remind the Mayor or each other anytime they feel the members presence in a discussion with a particular subject matter is a conflict of interest. The Council agreed that Councilman Tyner's policy would be given to the City Attorney to be put in proper form and placed on the next Mayor and Council agenda for action as an interim resolution until the review of the ordinance is completed. Councilwoman Novsepien asked that the

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proposal be made available to the public. She added that it be mailed out with the agenda.

Councilman Abrams asked that the question of the postcard referendum also be placed on the agenda.

Re: Award of Contract: Bid  
No. 5-85, Parking Garage  
Repairs

(At this time the Mayor announced he would be abstaining from this discussion and vote.)

Bids were opened in the Boards and Commissions Room on Friday, July 6, 1984, at 11:00 a.m. for Structural Repairs to the Rockville Town Center Garage. The work bid was the repair of deteriorated concrete and reinforcing steel in the twelve (12) year old structure. It also included the relocation of some electrical conduit during the progress of the work.

The specifications upon which the bids were based made provision for three alternate cost totals.

- A) Lump sum bid for the entire job.
- B) Phase I (the area presently blocked off by the rail renovation work - column lines 26-41)
- C) Phase II (the area presently open to the public and operated by the City - column lines 1-26.

The following bids were received:

Millonig Corporation, Potomac, MD	Lump Sum	\$469,000
	Phase I	238,000
	Phase II	260,000
Allied Contractors, Inc., Baltimore, MD	Lump Sum	\$791,210
	Phase I	429,700
	Phase II	361,510

In talking to companies which obtained plans and specifications it was learned that the job was too big and too complicated for many of them to undertake. Other contractors which were capable of doing the work were either too busy to take on another large job or had problems assembling the requisite

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bonds. These contractors did verify, however, that they had estimated the work to be in the \$500,000 range.

The qualifications of the low bidder, the Millonig Corporation, have been verified. Agencies such as the Montgomery County Parking Authority and WMATA have confirmed that Millonig is a qualified, reputable garage contractor.

It is therefore recommended that the following steps be taken:

- 1) Award a contract for the Phase II work in the amount of \$260,000 to Millonig Corporation.
- 2) Appropriate additional monies from the Community Development Fund at mid year so that the remaining work can be bid in early 1985.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all voting, Mayor Freeland abstaining, Bid No. S-85, was awarded according to the staff's recommendations; Phase II work, in the amount of \$260,000 to the Millonig Corporation and a plan to appropriate additional monies from the Community Development fund at mid-year to do the remaining work.

Re: Decisions and instructions to staff: Text Amendment Application, T-55-82, Prudential Insurance Co., Applicant, Special Development Standards in the I-3 zone, to allow site design flexibility.

The City Attorney explained that the text is being amended in a form as approved by the Planning Department. The language is technical in character but it clarifies that a person seeking to modify an ownership plat for a tract of land would only have to obtain approval for a new use permit. It retains the standards in the I-3 zone and makes the property more attractive for mortgage lending purposes.

On motion of Councilman Abrams, duly seconded and unanimously passed, staff was instructed to prepare the necessary legal documentation to grant the text amendment.

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Re: Resolution: To authorize  
the Rockville Historic  
District Commission to  
proceed with implementa-  
tion of a three year  
historic Preservation  
Planning Work program

Resolution No. 27-84

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 27-84, the full text of which can be found in Resolution Book No. 6 of the Mayor and Council, authorizing the Historic District Commission's program was approved by the Mayor and Council.

Re: Discussion and Decision:  
Disposition agreement with  
Winmar/Nordal

At this time Mayor Freeland stepped down from the Chair and left the meeting. Councilman Tyner assumed the Chair in the position of Mayor pro-tem.

Councilman Abrams stated that in view of the fact that the terms of the City's agreement with Winmar/Nordal had not been met, the staff should prepare a letter indicating that the agreement, by its own terms, is deemed to be terminated. The City Attorney noted that the Arnold a Porter letter presented to the Council this evening, addressed to Mr. Flick, represents that Winmar/Nordal has provided the financial assurances to the City as contemplated in the Development Agreement. The City Attorney stated that there are two questions to be addressed, one deals with the question of timely filing and the second with evidence of financing as submitted by Winmar/Nordal. If the Council feels the submission was not timely, then the agreement is automatically terminated for failure to comply. As regards the financing terms of the agreement, the Mayor and Council disapproved of the letter forwarded since the financing information is not complete and there are no terms contained in the letter that could be considered a commitment for interim and permanent financing.

Councilwoman Hovsepian moved, duly seconded that the staff prepare a letter to Winmar/Nordal explaining that the agreement was deemed to be terminated and that the last extension given by the Mayor and Council was very specific saying it was the last extension. The letter should include that the filing seen by the Council tonight was not submitted timely, but even if it was, such submission of financing is disapproved, since Winmar/Nordal has not delivered to the City evidence that it has obtained firm and binding commitments for financing as required in the Development Agreement. Councilman Tyner asked if the staff has seen any renderings. The City Manager said as he understood it, a lender had not been approached and there were no renderings or pro-formas. It would take at least three weeks for any of that to begin.

Councilwoman Hovsepian's motion was approved by unanimous vote of all present.

Councilman Abrams noted the letter that had been received from Quality Inn and asked the staff to respond to that, explaining that the Mayor and Council appreciate their interest, but... include a copy of the letter to Arnold C. Porter. He also asked the Attorney to clarify the construction dates for them as were in the original agreement. Councilman Duncan suggested the Mayor and Council make a public declaration of their commitment to the Town Center Plan. The Council agreed to this. Councilman Abrams also asked that any expression of interest should be brought to the attention of the Mayor and Council. Mayor pro-tem Tyner agreed and asked that a work session be held by the Council on where we go from here concerning the Town Center. The City Manager said this could be done on August 13.

Re: Decision and Instructions  
to Staff: Fletcher Place  
Parking District.

(At this time, Mayor Freeland returned to the meeting)

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Action is needed by the Mayor and Council on a request for a parking permit district on Fletcher Place in Rockville because of the use of off-street parking by the employees and patients of the Treatment Center. A public hearing was held on May 14, 1964. The Planning staff has indicated that the traffic situation at this time does not warrant a parking district. The staff recommends that the Treatment Center be put on notice that employees should use assigned off-street parking spaces. At the same time, the staff will contact the School Board and ask them to downsize the School buses using Fletcher Place. This can be done for a trial period and by mid-October, if the Treatment Center fails to honor its agreement to use off-street parking, the district should again be considered. Councilman Duncan asked if the Treatment Center has issued directives to the staff to park in the off-street spaces. Mr. Pavlin said they are awaiting final confirmation from the Armory but the Treatment Center is getting five additional spaces at the Baptist Church. Councilman Duncan said it would seem the neighbors agree to this change in the use of Fletcher Place and the staff will have to monitor it closely.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Council agreed that a final decision on the parking permit request will be delayed until the option of the Treatment Center putting its employees on notice that they use the assigned parking spaces and conversations with the School Board, has had time to work. Mrs. Premo, in the audience, asked who would be responsible for monitoring the situation. Mayor Freeland said the Mayor and Council will be awaiting calls from the citizens to see if this new plan is working.

Re: Approval of Contract for  
purchase of deisel fuel  
(CCG)

Bid No. 30800-RS: Washington Metropolitan Area Transit Authority Cooperative Purchase of Diesel Fuel for the Washington Area Council of Governments was



issued for the Purchase of #2 Diesel Fuel by the participating jurisdictions. The City was listed as a participant. Each jurisdiction is to execute its own contract.

Bids were opened at 10:00 a.m. on May 3, 1984, and four bids were received to furnish and deliver #2 Diesel Fuel via Truck Transport which entails deliveries of over 4,000 gallons. Award was confirmed per a letter dated June 13, 1984, for the Washington Metropolitan Area Transit Authority (WMATA) to the successful bidder Langham-Hill Petroleum, Inc.

Bids were allowed on both a firm fixed price basis and on an escalating basis. The following bids were received:

<u>Company</u>	<u>Firm Fixed Price</u>	<u>Escalating Price</u>
Burkholter Co., Inc.	No Bid	\$.8928/gallon
Phoenix-Astor Line	\$.8577/gallon	No Bid
Petron Trading Co.	\$.8523/gallon	\$.8679/gallon
Langham-Hill Petroleum Inc	\$.8343/gallon	No Bid

For the purpose of evaluation, the invitation for bid stated that the Contract will be awarded to the lowest fixed price bid, as long as the Fixed Price bid is not more than 5% greater than the lowest escalating bid offered. Based on the bids received, the firm fixed price bid by Langham-Hill of \$.8343/gallon is 3.36¢ less than the escalating price of \$.8679/gallon bid by Petron Trading Company. Therefore, the determination was made by WMATA that the Council of Governments award to Langham-Hill Petroleum Inc.

Based on the above-referenced information, it is recommended that award be made to Langham-Hill Petroleum Inc., for the total estimated amount of \$35,664.10 for the base period ending June 30, 1985.

It is also recommended that Mayor and Council agree to the extension of the contract for two additional one year periods upon review by the Mayor and Council ninety days prior to the end of the base year.

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On motion of Councilman Tyner, duly seconded and unanimously passed, the bid for diesel fuel was awarded to Lanham-Hill Petroleum, Inc., in the amount of \$35,864.10 and the staff was authorized to extend the contract for two additional one years upon review by the Mayor and Council.

Re: Approval of storm water management waivers: a) Southlawn Office & Industrial Center b) Lot 13, Block 4, Roxboro.

a) Southlawn Office & Industrial Center

The site is located at the northeast corner of the intersection of North Horners Lane and Southlawn Lane. It contains roughly 2.435 gross acres of which 0.59 acre or about one fourth is street right-of way. The project consists of a 20,400 square foot addition to an existing warehouse, and 28,000 square feet of paving. Existing imperviousness of the site is 30%. After development, the percent imperviousness will be 77%.

It is recommended that the waiver be granted, subject to concurrence by the NSCD, and a contribution of \$17,290 ( $.7692 \times 2.435 \text{ gross acres} \times \$12,000/\text{ac}$ ) be accepted toward the City's regional SWM program.

On motion of Councilwoman Hovsepian, duly seconded and unanimously passed, the waiver of on-site for Lot 4, Block 7 of Southlawn was approved by the Council and a contribution of \$17,290 was accepted.

b) Lot 13, Block 4, Roxboro

This site at 104 Aberdeen Road is one of a few remaining vacant lots in a 35 year old 120 lot subdivision in the Watts Branch drainage area.

The house sits among a number of very mature trees. Because of the trees and the slope of the lot, it would be difficult to provide the preferred type of on-site storm water management.

Since this single family unit is on a lot with very mature trees and will have minimal amount of runoff and since the storm drainage system can accommo-

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date the small increase in flow, it is recommended that the City waive the on-site SWM requirement and accept a contribution of \$504.25 (0.25 acres @ \$2,017) toward the public off-site SWM program.

On motion of Councilman Duncan, duly seconded and unanimously passed, the waiver of on-site for Lot 13, Block 4, Roxboro Subdivision was approved and a contribution of \$504.25 was accepted.

Re: Approval of roadway spot improvements

The Traffic and Transportation Commission has submitted to the Mayor and Council a list of FY 85 roadway spot improvements. Councilman Abrams suggested the list be amended to include as a priority curb cuts needed for the three corners of College Parkway and Princeton to accommodate a wheelchair. Mayor Freeland suggested that the Commission prioritize the list and include the Mayor and Council's suggestion in the College Gardens area with the assurance that the Mayor and Council will adjust the budget figures accordingly at mid-year.

On motion of Councilman Abrams, duly seconded and unanimously passed, the program was approved.

Re: Award of Contract: Bid  
No. 1-83, Year III Option,  
Refuse Collection for  
City-owned buildings

In July 1982, bids were solicited to place, collect and maintain trash containers for two distinct groupings, 18 Municipal locations and 11 Rockville Housing Authority Locations. The companies were asked to provide firm prices for three years. The award retained the option of extending the contract for Years II and III.

United Disposal Corporation's bid for Year III at \$22,364.00 for Municipal locations and \$21,580.00 for Rockville Housing Locations represents a 7.9% increase over fiscal year 1984 prices which is somewhat higher than current rate

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of inflation. However, it compares very favorable to the next low bid of \$68,224.76 which is more than 50% higher.

The amount budgeted for the Municipal locations is \$23,248.00

In accordance with the above cited information, the staff recommends continuing with United Disposal for Year III expiring July 31, 1985, for \$23,248.00 for Municipal Locations and \$21,580.00 for Rockville Housing Authority locations.

Councilwoman Hovsepian asked if the City pays for the Housing Authority collection completely. Mr. Olson explained the Authority reimburses the City.

On motion of Councilman Tyner, duly seconded and unanimously passed, bid No. 1-83, Year III Option was awarded to the United Disposal in the amount of \$23,248.00 for municipal locations and \$21,580.00 for Rockville housing Authority locations.

Re: Award of Contract: Bid  
No. 2-85, Smoothseal

Bids were opened for the Fiscal Year 85 smoothseal contract at 3:00 pm, Tuesday, July 10, 1984, in the Mayor and Council Chambers. Two bids were received as follows:

A. H. Smith, Branchville, MD (\$34.60 per ton)	\$225,947.00
F. O. Day Company, Rockville, MD (\$41.00 per ton)	\$266,545.00
Engineer's Estimate	\$228,035.00
Budget Appropriation	\$201,420.00

Smoothseal is a thin (1/2" to 3/4" thick) asphalt paving overlay which improves skid resistance and aesthetic quality while extending pavement life through improved water seal and additional asphaltic depth. The process has been used in Rockville since 1960. The bid response is normal due to the nature of the work and material.

The low bidder, A. H. Smith Company, is an experienced paving contractor who has previously performed this work for the City in a satisfactory manner.

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Staff recommends that the Mayor and Council award the smoothseal contract to the low bidder, A. H. Smith Company, at the unit price quoted and in the total amount of the appropriation of \$201,420.00

On motion of Councilman Abrams, duly seconded and unanimously passed, Bid No. 2-85 was awarded to A. H. Smith at the unit price quoted in the total amount of \$201,420.00.

Re: Award of Contract: Bid  
No. 8-85, Concrete  
Maintenance

Bids were opened at 10 a.m. Friday, July 13, 1984, in the Mayor and Council Chamber. The bid covers various items of work under two separate projects. The bidding document specified the City's intent to award the bid on the basis of the low bidder of each project.

The projects are: Project 1 - Concrete Maintenance Contract and Project 2 - Brent Road paving.

Six firms requested bid documents and, of that number, three bids were received as follows:

	<u>Project 1</u>	<u>Project 2</u>
Nazario Construction Co., Inc., Beltsville, MD	\$219,200.00	\$11,180.00
Concrete General, Inc., Gaithersburg, MD	254,825.00	11,500.00
F.O. Day Company, Inc., Rockville, MD	303,175.00	7,315.00
Engineer's Estimate	\$202,000.00	\$ 7,000.00

It is recommended that the Mayor and Council award the contract to the two low bidders as follows:

Project 1: Award to Nazario Construction Company, Inc., in the amount of the budget appropriation of \$202,000.00

Project 2: Award to F.O. Day Company, Inc., in the amount of their bid of \$7,315.00.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 8-85 for Project 1 was awarded to Nazario Construction Co., Inc., in the

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amount of \$219,200.00 and Project 2 to F.O. Day Company, Inc., in the amount of \$7,315.00.

Re: Award of Contract: Bid  
No. 9-85, Dawson Farm Park  
Development and storm  
water management facility

Bids were opened at 3:30 p.m. Friday, July 13, 1984, in the Boards and Commissions Room of City Hall for the subject project, which includes a storm water management facility combined with recreation area improvements, described as follows:

- 1) This project is located on Ritchie Parkway north of Brice Road in the Dawson Farm recreation area. It consists of construction of a "dry" SWM pond with an earthen and gabion dam. The exposed face of the gabions will be constructed of natural, earth tone field stones to better blend with the surrounding area. It will be funded from contributions received from developers of the land in the Rockville Pike area.
2. This project includes improvement of the contiguous recreation area by providing a bridge-type structure for access between Ritchie Parkway and the park area. It also includes grading the recreation area and provision of bike path connections between neighborhoods. The cost of this portion of the bid is \$91,565.00. Funding for this work will come from the SWM fund plus \$45,000.00 from the State's Program Open Space and \$10,000.00 from the Hungerford subdivision developer.

The Dawson Farm project has been coordinated with the affected neighbors by holding several meetings within the neighborhood over the past two years.

Fifteen bidders picked up the bid package. Of this number, nine submitted bids as follows:

C.M.A., Inc., Annapolis, Maryland	\$179,971
Ray Sears & Son, Inc., Gaithersburg, Maryland	252,743
Marbro Company, Inc., Beltsville, Maryland	296,210
Westlind Construction, Co., Chantilly, Virginia	297,587
Allied Contractors, Inc., Baltimore, Maryland	297,835
Peak, Inc., Beltsville, Maryland	300,680
Corman Construction, Inc., Baltimore, Maryland	362,117
Marine Structure Applications, Inc., Dumfries, VA	382,355
Marvaco, Inc., Fairmont Heights, Maryland	428,405
Engineer's Estimate	\$254,424
Remaining Appropriation (including P.O.S. Funds)	\$198,946

It is the staff's recommendation that the contract be awarded to the low bidder, C.M.A., Inc., in the amount of their bid of \$179,971.00

On motion of Councilwoman Hovsepian, duly seconded and unanimously passed, Bid No. 9-85, was awarded to C.M.A., Inc., in the amount of their bid of \$179,971.

Re: Approval of testimony on  
County Comprehensive  
Energy Plan

Draft testimony has been submitted to the Council for the Montgomery County Council public hearing on August 2 on the proposed comprehensive energy plan submitted by the County Executive. The Energy Commission has reviewed the plan and recommends that the City support the plan's purpose and approach while seeking more direct involvement in developing specific measures to reach its goals. Mr. Vandrey suggested that stronger language be placed in the testimony concerning working with municipalities. Mayor Freeland suggested that results be cited for what the City has done and suggest that the County incorporate the City's plan into theirs. Also, include a recent memo on savings to the City because of its plan.

On motion of Councilman Duncan, duly seconded and unanimously passed, the testimony was approved.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Norma Duffin, re neighborhood items

Councilwoman Hovsepian asked if anything had been done. She suggested that since the City police are a supplemental force they should be supplementing the surveillance in that neighborhood. The City Manager said a response to the Council is coming.

2. Charles Rand, re Ethics Law

The Mayor and Council asked the Clerk to respond to Mr. Rand and tell him that the Mayor and Council are reviewing his questions.

3. C.V. Parker, re A-196-84

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4. C.V. Parker, re food program

Councilwoman Hovsepian asked that this information be forwarded to Rev. Dring.

5. TCA, Carole Cohen, re air pollution problem

Councilman Tyner suggested the staff come back with some comment on this.

6. Delegate Boergers, re MNL award

7. Delegate Forehand, re curb cut

8. Wootton Boosters, re light contribution

Councilwoman Hovsepian noted this letter and said the leftover from the Richard Montgomery bid was certainly not enough to finance the Wootton program.

9. O. Farozic, re Mayor Freeland's job

10. Hall Kasoff, re I-270 & Nursing Home

11. Moran Family, re flag

12. TCA, re nonconforming uses

Councilwoman Hovsepian asked for clarification. The City Manager said the staff will be back with information.

13. Nicholas Stoer, re development

Councilwoman Hovsepian asked if the Planning Commission has done anything. Mayor Freeland said a note should be sent to Mr. Stoer explaining the Mayor and Council will certainly support the Task Force as he suggested if the Planning Commission wants it. Councilman Tyner suggested the letter goes a step further and must be addressed regardless of the Planning Commission's desires on Area 12.

14. R. C. Simmonds, re 4th of July celebration

15. M. Martin, re 4th of July celebration

16. J. A. Mazzetta, re neighborhood problem

Councilwoman Hovsepian asked if there is anything the City can do, maybe take another look at that road. The City Manager said the City has done all of the measurements and the noise is below the standards set by federal law. There will always be some noise and no more can be done for attenuation? without a major expense. He noted that it has been suggested that when the bridge is completed over I-270 it will make an improvement and eliminate the downshifting.



## re: Information Items

1. Current project list from Recreation and Parks Department
2. Information concerning path at 2414 Henslowe Drive
3. Responses to citizen inquiries

Councilwoman Hovsepian said she is delighted to see these responses included with the Mayor and Council's information since it keeps them up to date on the questions asked by citizens.

4. Article on Chemical Root Control Program
5. Memo on Traffic Controls - College Parkway and Nelson Street
6. Copy of draft letter to High Schools re CIP funds

The Mayor and Council approved this letter. Councilman Abrams asked that a copy of this letter be sent to interested people - booster clubs, PTAs, etc.

7. Letter to City employee re F4
8. Letter to forester re animal problem

Councilwoman Hovsepian asked what is being done. The City Manager said it would be necessary to talk to professional trappers since the beavers do not fall within the jurisdictions of the City's Animals Wardens.

9. Letter from MD DOT re 1-270
10. Memo re newspaper collection

Councilwoman Hovsepian said it is good to see the newspaper collection continuing.

11. Memo from City Manager re Classification of cities

Councilman Tyner asked for the staff's opinion on the survey itself. The City Manager said portions of it were difficult to handle. Councilman Tyner asked that that information be passed on to the League.

12. Memo from City Attorney re Eugene Casey Trust v. Mayor & Council
13. Copies of citizen's complaints

Councilwoman Hovsepian agreed the dumpsters should be emptied more frequently and asked that the staff look into it. She did note that the Twinbrook Shopping Center collection has started in early morning again.

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14. Memo re RMA appointments

The Mayor and Council agreed to the correction of appointment dates.

Re: New Business

1. Councilman Duncan stated he received a request that the Twinbrook Pool be excluded from the amusement tax on guest passes and he asked how to go about doing this. The City Attorney said it is possible to get a City exemption, but a resolution would be necessary to exempt all such non-profit organizations. The Mayor asked what revenues are received from this. The City Manager said staff did not know at this time. The City Manager said he felt before the income is waived the staff should know what budgetary impact it will have in the future. Councilman Duncan asked that this be placed on a future agenda when all the figures are known.

2. Councilman Tyner noted that at 10 a.m. Wednesday morning there will be a meeting with the County Executive in the County Executive's office on the Tillie Frank Legislation.

3. Mayor Freeland said he is concerned with the Twinbrook Shopping Center and the facilities there since it has come to his attention that Safeway has two years to go on its lease and does not plan to renew. The City should act quickly to assist. Councilman Abrams said he knows that Safeway has acquired the ACME site at Randolph and Veirs Mill. Mayor Freeland suggested the staff and the Mayor and Council make themselves accessible to the management of Safeway to see if its possible to keep this store in the City.

Re: Approval of Minutes

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of Meeting 25-84, June 25, 1984, were approved as written.

Re: Executive Session

On motion of Councilman Abrams, duly seconded and unanimously passed, the meeting was closed for executive session to discuss personnel matters.

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Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 11:20 p.m. to convene again in executive session on Monday, June 30, 1984, at 7:30 p.m.